

Appn No. 10/660,452
Amdt date August 7, 2007
Reply to Office action of February 8, 2007

REMARKS/ARGUMENTS

New claims 28 and 29 have been presented and claims 21-27 have been withdrawn. Therefore, claims 1-10, 14-17 and 19-29 are pending in the application, of which claims 1-6, 9, 10, 17 and 21-27 have been withdrawn.

Applicants' attorney, Mark Garscia, conducted an in-person interview with Examiner Willse on May 24, 2007. Applicants' attorney and the Examiner discussed the rejections over Navas. Applicants' attorney proposed adding language to the claims to recite that the prosthesis replaces the entire vertebral disc. The Examiner indicated that such language appears to distinguish the claims over Navas, but is subject to further review. Applicants would like to thank the Examiner for his time and effort in conducting the interview.

Claims 7, 8, 14-16, 19, and 20 have been rejected under 35 U.S.C. 101 for being directed to non-statutory subject matter involving the vertebral column. Applicants have amended claim 7 to recite that the intermediate elastic body is configured to extend primarily in a plane generally perpendicular to the vertebral column, rather than reciting that the elastic body extends in a plane generally perpendicular to the vertebral column. Applicants believe that this amendment overcomes the rejection under 35 U.S.C. 101.

Claim 8 has been rejected under 35 U.S.C. 112 as being indefinite. Applicants have amended claim 8 to recite the top plate having an outer edge and the base plate having an outer edge. Applicants believe that the amendment to claim 8 overcomes this rejection.

Claims 7, 14, 15, 19, and 20 have been rejected under 35 U.S.C. 102(b) over Navas, U.S. Pat. No. 5,540,688. Applicants have amended claim 7 to recite that the prosthesis is configured to replace the vertebral disk. In contrast, Navas does not teach or suggest a prosthesis that is configured to replace the vertebral disk. As shown in FIG. 2 of Navas, the implants 2 and the connecting damper 1 connect and stabilize two vertebrae. The implants 2 and the connecting

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damper 1, however, do not replace the vertebral disk as recited in claim 7. Therefore, Applicants believe that claims 7, 14, 15 and 19 are patentable over Navas.

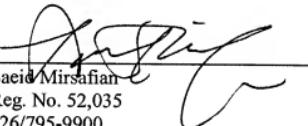
Claims 8, 15, and 16 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Navas, US 5,540,688. Because claim 7 is patentable over Navas, claims 8, 15 and 16 are also patentable over Navas.

Applicants have presented new claims 28 and 29, which recite that the curved sections of the top plate and the base plate are concave, respectively.

Applicants request allowance of the claims.

Respectfully submitted,
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